

Docket Management Facility
U.S. Department of Transportation, room PL-401
Washington, DC

July 24, 2003

Submitted via the Docket Management System at <http://dms.dot.gov/>

**Re: DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Parts 104, 160, and 165
46 CFR Parts 2, 31, 71, 91, 115, 126, and 176
[USCG-2003-14749]
RIN 1625-AA46
Vessel Security**

Dear Sirs,

BIMCO would like to thank the Coast Guard for this opportunity to submit comments on the above referenced interim rule. BIMCO represents over 2,500 shipping companies situated in 122 countries around the world, which control 65% of the world's merchant fleet. BIMCO has taken an active role in addressing maritime security issues for many years, including participation in the intensified work that commenced after the tragic events of September 11, 2001.

With respect to maritime security regulations, at this point in time BIMCO has two primary concerns of a general nature. The first being the need for governments to establish national regulations that are in line with international instruments to ensure ease of compliance within international trades. This concern relates to the SOLAS security amendments that enter into force on July 1, 2004, including the International Ship and Port Facility Security Code. The US Coast Guard's Temporary Interim Rules for vessels appear to achieve such consistency, and we hope that future legislation, both in the US and elsewhere, will maintain this approach.

Our second concern relates to the treatment of seafarers at foreign ports. Whilst the need to secure borders is recognised and appreciated, we believe that efforts should be made to ensure that seafarers receive fair treatment and are not routinely denied the privilege of shore leave. In this respect we hope that standards established by the International Labour Organization relating to seafarer identification will be widely accepted and implemented.

On the following pages you will find specific comments relating to the interim rules for vessels regarding International Ship Security Certificates, Declarations of Security, Vessel security Assessments and the duties for company and vessel security personnel. The Coast Guard's advice and clarifications on these points will be useful to BIMCO's members as they seek to achieve compliance with these security requirements.

Yours faithfully,

BIMCO

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International Ship Security Certificate

At MSC77 “the committee noted that paragraph 9.4 of part A of the ISPS Code required that in order for an ISSC to be issued, the guidance in part B would need to be taken into account and agreed that it was assumed that an ISSC would not be issued unless paragraphs 8.1 to 13.8 of part B of the ISPS Code had been taken into account.”

Paragraphs 8.1 to 13.8 of part B of the ISPS Code cover the following sections:

- 8 Ship Security Assessment
- 9 Ship Security Plan
- 10 Records
- 11 Company Security Officer
- 12 Ship Security Officer
- 13 Training

In the USCG temporary interim rules addressing security measures for vessels (FR Vol 68 no 126 of July 1, 2003) the first reference to the International Ship Security Certificate (ISSC) found on page 39294 reads as follows (split-out to illustrate the three criteria that the ISSC must attest to):

Compliance

(Second paragraph) Foreign vessels that have on board a valid International Ship Security Certificate that attests to the vessel's compliance with

International Convention for Safety of Life at Sea, 1974, (SOLAS) and

the ISPS Code, part A, and

the relevant provisions in the ISPS Code, part B,

will be deemed in compliance with this part, ...

Several similar references to the International Ship Security Certificate attesting to the vessel's compliance with the relevant provisions in the ISPS Code, part B are made latter on in the text.

The IMO's Maritime Safety Committee agreed that issuance of the ISSC was in essence prima facie evidence that paragraphs 8.1 to 13.8, the so-called 'relevant provisions' of part B of the ISPS Code, had been taken into account, and therefore did not agree to amend the ISSC to specifically indicate that part B provisions had been taken into account.

Therefore the concern is whether the USCG will accept the issued ISSC as evidence that vessel is in compliance with the relevant provisions in the ISPS Code, part B, as was agreed at the IMO.

Declarations of Security

On page 39296 we find the requirement that *Declarations of Security must be kept as part of the vessel's recordkeeping.*

For how long must the declarations be kept? (The ISPS Code leaves this decision to the Administrations, and therefore this storage period could vary depending on the vessels' registry.)

Would §104.235 on page 39306 specifying a two-year storage period apply to the DoS?

Vessel Security Assessment (VSA)

On page 39296 we find the requirement that *The designated Company Security Officer must conduct the on-scene survey by examining and evaluating existing vessel protective measures, procedures, and operations.*

This wording seems to eliminate the possibility of having an RSO perform the VSA. Is this the intention?

§ 104.220 Company or vessel personnel with security duties.

On page 39305 we find the text:

Company and vessel personnel responsible for security duties must have knowledge, through training or equivalent job experience, in the following, as appropriate:

(c) Recognition of characteristics and behavioural patterns of persons who are likely to threaten security;

The concept is understood, however perhaps wording such as *identify suspicious activity that could indicate actions that may threaten security* would be better than *recognition of characteristics and behavioural patterns.*